

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Fallon Art Unit : 1648
Serial No. : 09/990,909 Examiner : Zachariah Lucas
Filed : November 16, 2001
Title : METHODS FOR DIAGNOSING PERVERSIVE DEVELOPMENT DISORDERS,
DYSAUTONOMIA AND OTHER NEUROLOGICAL CONDITIONS

MAIL STOP PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Declaration of Joan M. Fallon in Support of Petition to Revive Application 09/990,909 for
Unintentional Abandonment

I, Joan M. Fallon, declare as follows:

1. I am the sole inventor listed on the above-referenced patent application (the “application”), which was filed in the U.S. Patent and Trademark Office (“Office”) on November 16, 2001. I am also the CEO of Curemark LLC (“Curemark”), which is the assignee of the present application.
2. I had engaged F. Chau & Associates LLP (“prior counsel”) to prosecute the above-referenced application. Power of attorney was vested in F. Chau & Associates LLP by virtue of the Oath or Declaration signed by me on November 16, 2001.
3. I understand that on July 27, 2004, the Office issued an Office Action rejecting the present application, and further that prior counsel filed a Notice of Appeal on January 27, 2005.
4. I understand that prior counsel filed a “Request to Withdraw as Attorney” that was received by the Office on August 1, 2005.
5. I filed a Revocation of Power of Attorney and New Power of Attorney with the Office to transfer responsibility for the present application to myself on August 24, 2005. Prior counsel had indicated an unwillingness to continue prosecuting the case for me.
6. I never received a confirmation from the PTO that the Revocation and New Power of Attorney document had been received and/or acted on.
7. I understand that the correspondence address for the application is still listed in Public PAIR as F. Chau & Associates LLP.

8. When prior counsel withdrew, prior counsel did not convey to me that an Appeal Brief or a Request for Continued Examination was required to be received by the Office by August 27, 2005.
9. When prior counsel withdrew, prior counsel did not return to me the physical file associated with the present application or any documents related to the present application.
10. When prior counsel withdrew, prior counsel did not explain to me that my application would go abandoned if I did not respond by August 27, 2005 to the outstanding Office Action.
11. In January of 2009, my brother James Fallon came to assist me at Curemark. His duties include, among other things, assisting me in intellectual property matters.
12. After an extensive review and organization of my portfolio, sometime in April of 2009, James Fallon informed me that the application had been abandoned.
13. I was unaware that the application had been abandoned prior to that point.
14. I never received a Notice of Abandonment from the Office.
15. I understand that a Notice of Abandonment was returned to the Office as "undelivered" on January 12, 2006, and that it had been addressed to prior counsel.
16. I did not instruct prior counsel to abandon this case or to let this case go abandoned.
17. It was not my intention to let this application go abandoned.
18. From April of 2009 until now, I have been working with James Fallon and Teresa Lavoie of Fish & Richardson P.C. ("present counsel") to discuss and address the status of the application and the requirements for reviving the application.
19. In late October 2009, Curemark LLC officially transferred responsibility for all Curemark patent applications, including the present application, to present counsel.
20. The entire delay in filing the required reply from the due date for the reply until the filing of the present petition was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are so made punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: 11/13/05

Joan M. Fallon
Inventor